

Article II. Administration and Enforcement

Sec. 125-10. Application of this Ordinance

- A. In its interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public, health, safety, morals and welfare.
- B. Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- C. Except as in this ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used, for any purpose nor in any manner that is not in conformity with this ordinance.
- D. This ordinance is not intended to abrogate any easements, restrictions, covenants, relating to the use of land or imposed on lands within the community by private declaration or agreement, but where the provisions of this ordinance more restrictive than any such easement, restriction, or covenant, or the provision of any private agreement, the provisions of this ordinance shall prevail.

Sec. 125-11. Authority

- A. This Ordinance is adopted pursuant to the authority granted by Minnesota Statutes.
- B. This Ordinance was adopted to promote the health, safety and general welfare of the City of Rogers, Minnesota and its citizens, including protection of the environment, conservation of land, energy and natural resources, reduction in vehicular traffic congestion, more efficient use of public funds, health benefits of a pedestrian environment, historic preservation, education and recreation, reduction in sprawl development, and improvement of the built environment.

Sec. 125-12. Separability

It is hereby declared to be the intention of the City that several provisions of this Ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

Sec. 125-13. Fees

- A. To defray administrative costs of processing of all zoning requests, administrative fees and escrows shall be charged to the applicant based upon a fee schedule adopted by ordinance.
- B. In addition, to defray the typically higher cost of processing applications for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in processing the applicant's request, including but not limited to processing, notices and recording the request.

Sec. 125-14. Violations

Any violation occurring will be subject to penalties and enforcement pursuant to [Sec. 125-15. Enforcement](#) and [Sec. 125-16. Penalties](#). Any violation issued prior to the adoption date of this Chapter shall be subject to the fines and penalties of the previous ordinance unless the violation is not addressed by the property owner and is reissued by the City after the adoption of this Chapter, in which case the violation shall be subject to the fines and penalties in [Sec. 125-15. Enforcement](#) and [Sec. 125-16. Penalties](#).

- A. Activities in violation of Rogers Land Development Regulations Ordinance, include, but are not limited to:
 - 1. To erect, construct, reconstruct, remodel, alter, maintain, expand, move or use any building, structure or sign, or to engage in development or subdivision of any land inconsistent with this Chapter, or to fail to obtain required approvals for any of those activities.
 - 2. To use, occupy, create, expand, replace, or change a nonconforming use, structure, lot or sign except in compliance with this Chapter.

3. To reduce or diminish the lot area, setbacks, or open space on any parcel of land below the minimum required by this Chapter, resulting in a nonconforming lot or setback.
4. To increase the intensity of use of any land or structure, except in accordance with this Chapter.
5. To engage in any development, redevelopment, use, construction, remodeling or other activity inconsistent with the terms and conditions of any permit or approval issued by the City.
6. To fail to remove any sign installed, created, erected or maintained in violation of this Chapter, or for which a required sign permit was not obtained, or for which the sign permit has lapsed, or for which the business or use for which the sign was permitted has been closed for more than one year.
7. To fail to maintain any property, including without limitation any dwellings, dwelling units, housekeeping units, or rooming units, any sign, or any required landscaping or screening in the condition required by this Chapter;
8. To fail to replace any site feature or element required by this Chapter if that site feature is removed, or to fail to replace any required landscaping or screening that dies or becomes diseased.

Sec. 125-15. Enforcement

A. Responsibility

The Zoning Administrator is responsible for enforcing this Chapter. No permit or zoning approval shall be issued if the action as proposed would be a violation of this Chapter.

B. Remedial Tools

The City may use any of the following tools and powers to enforce this Chapter, in any order, and the use of one tool or power shall not restrict the City from using an additional tool or power to remedy the same violation.

1. Order requiring compliance.
 - a. The City may issue a written order identifying the violation(s) of this Chapter and requiring that the property owner or occupant bring the property into compliance with this Chapter, at the owner or occupant's expense, within a specified time. The notice shall state what actions are necessary to bring the property into compliance;

- b. The time allowed for correction shall be not less than 30 days, except
 - (i) If the order identifies a threat to public health or safety then a compliance shorter than 30 days may be required, and
 - (ii) If the order involves a violation of the provisions of the Sign Ordinance, the time for compliance shall be not less than 14 days.
- c. In determining a reasonable time for performance, the Zoning Administrator shall consider the nature and extent of the work involved, the season of the year, the existence of any immediate danger to public health and safety, and any other pertinent factors.
- d. The Zoning Administrator may extend the time for compliance in writing for good cause shown.
- e. Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, the resident agent or occupant of the premises, the City Council, the Zoning Administrator or the City Attorney may institute appropriate legal action or proceedings.
- f. When in connection to an issued zoning approval, City Council may revoke a Conditional Use Permit, Interim Use Permit or Variance.

2. Withholding Permits or Approvals

The City may refuse to process applications for permits and approvals under this Chapter if the application concerns a property where:

- a. The Zoning Administrator has determined to be in violation of the Chapter.
- b. The City has issued an order requiring that the violation be corrected and the owner occupant has not remedied the violation within the time stated in that order, unless the application is for the purposes of remedying the existing violation.

3. Prevention of Violation

If the City becomes aware that a building, structure, sign or site feature is about to be constructed in violation of this Chapter, the City may take appropriate action to prevent the violation. The City's action may include but is not limited to withdrawal of any permits or approval related to the construction or activity that would constitute a violation.

4. Abatement

- a. The City may take action to abate or remove the violation, and to charge the costs of the abatement or removal to the property owner if the property owner or occupant of a property fails to comply with an order to correct a violation of this Chapter within the time specified in the order, as that time may be extended by the building official in writing for good cause shown, and the building official determines that the continuance of the violation creates a threat to public health or safety;
- b. Following the abatement or removal, the City shall issue an order that the owner of the land on which the violation occurred pay to the City the documented costs of the abatement or removal with 30 days;
- c. If the owner of the land does not pay the documented costs of abatement or removal to the City within 30 days, those costs may be assessed against the land on which the violation occurred, and the City shall provide the owner of the land written notice of the assessment. Unless the assessment is paid within 90 days from the service of notice on the property owner, the sum shall bear interest at the rate set by City Council, per annum from the date the cost was incurred until paid, and shall be collected in the same manner as are general taxes.
- d. The City shall end the process of assessing abatement and removal costs against the land, or shall cancel the assessment if it has been finalized, upon receipt of payment in full of all costs documented in the order and all accrued interest on those costs;

5. Administrative Citations

The City may issue an administrative citation pursuant to the City Code and make take all actions authorized.

6. Court Actions

The City may enforce this Chapter by filing an action in law or equity in any court of competent jurisdiction, including without limitation a request for a declaratory judgment, a request for a restraining order or a temporary or permanent injunction, or a request for money damages based on the penalties for violation established in this Chapter or elsewhere in the City Code. The decision as to whether to seek enforcement in the courts, and what type of enforcement to seek, shall be at the discretion of the City.

7. Other Enforcement Powers

The City may enforce this Chapter through any other powers granted to the City by state law.

D. Notices and Orders

1. Any notice and order shall be served upon the owner or the owner's agent and the occupant as the case may require. In the case of a notice involving the sign regulations found in City Code, the notice shall also be served on the owner of the sign or the person or entity that erected or caused the erection of the sign.
2. The notice shall be deemed to be properly served upon those individuals or entities identified in subsection 1 if a copy of the notice is:
 - a. Served personally; or
 - b. Sent by United States mail, postage prepaid, to the last known address of the owner, occupant or agent shows in the City records; or
 - c. Posted in a conspicuous place in or about the property affected by the notice; or
 - d. Served by any other method authorized or required by state law;
3. Any notice served pursuant to subsection 1 shall automatically become an order if a written petition for a hearing is not filed with the building official within 14 days after the notice is served. An order is final unless an appeal is filed.

Sec. 125-16. Penalties

- A. Any person, firm or corporation who fails to comply with the provisions of this Ordinance or any order of the Zoning Administrator issued in accordance with this Ordinance or resists enforcement shall, upon conviction thereof, be guilty of a misdemeanor and may be fined as provided in the City Code.
- B. The owner of any property where the violation of this Chapter occurs shall be guilty of a misdemeanor and may be fined as provided in this Ordinance
- C. Penalties shall be waived if the violation is corrected within the time stated in any enforcement notice or order.

Sec. 125-17. Reserved

Sec. 125-18. Reserved

Sec. 125-19. Reserved

This page intentionally left blank